

**Issues Concerning the Dalit Community to be Included in the
New Constitution**

**Presented by
Nepal National Dalit Social Welfare Organization (NNDSWO)**

**On Behalf of
(Dalit Civil Society Organization Consortium “For a Fair Society”)**

Consortium Members:

- 1. Dalit Rights Protection Centre (DRPC)**
- 2. Dalit Welfare Organization (DWO)**
- 3. Feminist Dalit Organization (FEDO)**
- 4. Jagaran Media Centre (JMC)**
- 5. Janautthan Pratisthan (JUP)**
- 6. LANCAU Nepal**
- 7. Nepal National Dalit Social Welfare Organization (NNDSWO)**

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Representation and Participation

- ◆ All the agencies of state structure: There should be constitutional and legal guarantee of fully proportionate representation of the dalits in constitutional, legal or elected and nominated positions in proportion to dalit population.
- ◆ There should be a fundamental change in the administrative method of the state and an arrangement should be for the reservation along with additional rights in order to ensure the proportionate inclusiveness of the dalit community in all the agencies like security and bureaucracy (including both government-run and government-owned).
- ◆ The constitution should clearly mention about effective implementation (enforcement) of the provisions of proportionate participation of the dalit community in all state agencies—Executive, Legislative, Judiciary and Constitutional sectors.

State Restructuring

- ◆ While restructuring the state, the national constitution should essentially have a provision of a special policy regarding the proportionate participation aiming at solving economic, political, administrative and social problems of the dalit community so that it is not neglected from the federal state system. Similarly, there should be a provision that the autonomous regions cannot and should not waive the provision of such patronage in the national constitution.
- ◆ While forming the federal system, there should be a provision of full guarantee of the dalits' right in regional and local administration. The constitution should provide full guarantee against the system of untouchability and caste discrimination against the dalits of any place and type and against any concession given to this effect by the local administration to any religion, culture and tradition.
- ◆ There should be a constitutional provision ensuring dalits' participation, representation and access at all levels and positions of the party by the federal states.

Economic Rights and Employment

- ◆ It is essential to ensure the economic rights of the dalit community for their empowerment and all-round development. The constitution should have a provision of guaranteeing the economic preferences for the access of the dalit community in economic sector.

- ◆ The ownership of the landless (squatters) dalits over the land should be ensured through revolutionary scientific land reforms.
- ◆ The access of the dalit community to the natural resources like water, land and forest should be ensured.
- ◆ The constitution should include the rights to employment and selection of profession (job selection) and the state take essential and proper measures for their full insurance. The dalits should be given preferences in trade and industry related with their traditional profession.
- ◆ The right to food is related with human right to live. The constitution should mention both the rights under the fundamental rights and guarantee for the food security of the dalit community.
- ◆ Forms of labour exploitation determined by aristocratic geo-production:
- ◆ There should be a guarantee to practically uproot all kinds of bonded labour like haliya (ploughman), kamaiya (indented labour), haruwa (ploughman), charuwa (grazer), balighare (harvester), eater and disposer of doli (litter), bhund (a kind of crane??, intestines), sino (carcass), bethbegari (free labour), kamlari system and chaukidari (gateman's or guard's job) system of Madhesh.
- ◆ The judiciary system should be restructured and it should ensure to provide justice, at the earliest, from the Labour Court in the cases related with aristocratic geo-production.
- ◆ There should be a guarantee of employment on the basis of the constitutional principle of proportionate participation of the dalits in the industries and factories run on government and semi-government levels. In addition, the state should adopt a policy of positive discrimination of making participation in the same ratio even in the private industries and factories of national level.
- ◆ There should be a provision of special employment and facilities for the single and breadwinning women of the dalit community.
- ◆ Keeping in view the difficulties facing the dalit community in earning education, the age bar of the dalit candidates should be raised, for a certain period, 5 years higher than other candidates applying for civil, military, police and academic services and institutions.

Education

- ◆ There should be a guarantee for the students of the dalit community regarding their right to earning education and providing stipends from primary to high levels as

well as providing free, quality and compulsory education to them. Earning education should be regarded as a fundamental right.

- ◆ The state should ensure to make a provision for proportionate distribution of stipends to the dalit students in order to provide free education in private schools, higher secondary schools and campuses.

Health

- ◆ Health services should be established as fundamental rights and the access of the dalit community therein should be ensured. Moreover, the state should issue special cards to the dalit community for free medical treatment.
- ◆ Stern legal actions should be taken against those involved in or encouraging others for depriving the dalit community, on account of racial discrimination, of an access to the source of drinking water that should be or is made available for general people regarding their action as a severe breach of both the dalit community's right to water and fundamental and human right. Besides, erecting and using separate taps and water collecting places for and by dalits and non-dalits should be regarded as punishable.
- ◆ The rights to education, health, food, accommodation and respectful (dignified) life should be included right in the constitution as social and economic rights. Moreover, the state should give first priority to the dalit community while executing its responsibilities. These rights should also be implemented by the courts.

End of Racial Discrimination and Untouchability

- ◆ Untouchability is a crime. Such crime is against the (spirit of) constitution. Therefore, the new constitution should clearly mention about its constitutional eradication. There should be a provision to ensure effective provision of ending impunity against the untouchability and to define it as a crime against state, humanity and as a severe social crime. The offenders should be sternly treated by law and the victims should be compulsorily compensated.
- ◆ The Preamble of the constitution should mention the nation as free from untouchability.
- ◆ National Dalit Commission should be equipped with rights, constitutional and proportionately inclusive.
- ◆ The new constitution of Nepal should completely prohibit discrimination meted out on the basis of untouchability not only in public places but also in commercial and private sectors like employment, accommodation and all kinds of services in order to implement provisions of the human rights among the individuals and private agencies and individuals and state.

- ◆ Universal Declaration of Human Rights, 1948 has guaranteed for basic human rights of all human beings internationally while the Interim Constitution of Nepal has made a provision for prohibiting racial discrimination and practice of untouchability and enforcing punishment along with compensation. Thus it seems to be safeguarding the fundamental rights of the dalits in principle and the latter, therefore, are entitled to all kinds of rights. However, the past experience shows that the implementation and use of these rights of the dalits are related with social behaviour and attitude. Therefore, the constitution should ensure that there shall be no further encroachment of the basic rights and human rights of the dalit community in the name of social norms and values.
- ◆ In the present context of Nepal adopting a policy of privatization and liberalization, ensuring the basic rights and human rights of the citizens is not a task confined only to individuals or communities and state. Therefore, the constitution should clearly mention that these should be implemented by every individual, commercial and private sector, non-governmental organization and international organization. Right to education and health why this line????????

Social, Religious and Cultural Rights

- ◆ The constitution should guarantee the right to get married with the choice bride/groom in an independent way. Anyone preventing the parties from marrying on account of racial discrimination should be punished as a depriver of individual freedom. All the Acts, laws and policies and norms and values impeding one's right to independently choose a bride/groom and make marriage should be completely nullified (removed).

Positive Discrimination

- ◆ The future constitution should not only declare to fully end racial discrimination but also mention in a clear language that the promotion and implementation of the policy of positive discrimination for the dalits and other backward communities should be the state responsibility.

Politics and Political Parties

- ◆ While constitutionally ensuring the participation of the dalit community in political parties, the constitution should clearly mention about at least 20% meaningful participation of the dalit community in every political community.
- ◆ There should be a constitutional provision of forming and implementing a code of conduct against racial discrimination and untouchability for all levels of leaders and workers of political parties.

Law, Justice and Fair (Impartial) Administration

- ◆ The judiciary system and administration should essentially be restructured and made inclusive.

Women of Dalit Community

- ◆ Women of Dalit Community: Women are trebly subjected to discrimination, for being women, dalit, and dalit women. The state mechanism should accept the truth of threefold oppression meted out to them and form and execute due policies and rules in this regard.
- ◆ The right to equal participation by women of Dalit Community in terms of marriage and divorce should be ensured, and they should be guaranteed for full protection against domestic violence.
- ◆ Though the Interim Constitution, 2063 has provisioned for obtaining a certificate of citizenship in the name of one's mother, it is not practically enforced. Therefore, the constitution should ensure the provision of obtaining without hassles a certificate of citizenship in the name of one's mother. It should also define the discrimination against women in a clear language and provision for severe punishment in order to end such discrimination.

Madhesi Dalits

- ◆ The Madhesi dalits are the most backward community among the dalits. Though the Terai has a fertile arable land, the dalits of Madhes have no land ownership. Most of the Madhesi dalits are landless. The double standard of citizenship and landholding has still deprived most of the Madhesi dalit community of necessary services and facilities. Therefore, their problems should be solved and they should be guaranteed to have a proportionate participation in all the state agencies. They should also be given preferences in that very ground.
- ◆ The state should immediately address the problem of landlessness prevalent among the Madhesi dalits and distribute them necessary land and make arrangements for their settlement.